

§ 625.1

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AUTHORITY: 5 U.S.C. 504, 12 U.S.C. 2252.

SOURCE: 57 FR 60109, Dec. 18, 1992, unless otherwise noted.

Subpart A—General Provisions

§ 625.1 Purpose.

These rules implement the Equal Access to Justice Act, 5 U.S.C. 504 (EAJA). The EAJA provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (designated by the EAJA as “adversary adjudications”) before Federal agencies. An eligible party may receive an award when it prevails over an agency, unless the agency’s position was substantially justified or special circumstances make an award unjust. The rules in this part explain how the EAJA applies to Farm Credit Administration (FCA) proceedings. The rules describe the parties eligible for awards, how such parties may apply for awards, and the procedures and standards that govern FCA consideration of applications.

§ 625.2 Proceedings covered.

(a) The EAJA applies to adversary adjudications conducted by the FCA either on its own behalf or in connection with any other agency of the United States that participates in or in any way is a part of the adversary adjudication. Adversary adjudications are:

- (1) Adjudications under 5 U.S.C. 554 in which the position of the FCA or

other agency is presented by an attorney or other representative who enters an appearance and participates in the proceeding; and

(2) Enforcement proceedings under 12 U.S.C. 2261–2273.

(b) The failure of the FCA to identify a type of proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes that the proceeding is covered by the EAJA; whether the proceeding is covered shall then be an issue for resolution in proceedings on the application.

(c) If a proceeding includes both matters covered and excluded from coverage by the EAJA, any award made will include only fees and expenses related to covered issues.

(d) Proceedings under this part may be conducted by the FCA Board (Board) or by the presiding officer (referred to as the “adjudicative officer” in the EAJA), as defined in § 622.2(f) of this chapter. If the Board conducts proceedings, reference to the “presiding officer” in this part shall mean the Board, in applicable context. Where the Board presides, the recommended decision under § 625.26 of this part will be omitted and the Board will make a final decision on the application in accordance with § 625.27 of this part.

(e) If a court reviews the underlying decision of the adversary adjudication, an award for fees and other expenses may be made only pursuant to 28 U.S.C. 2412(d)(3).

§ 625.3 Eligibility of applicants.

(a) To be eligible for an award under the EAJA, an applicant must be a prevailing party named or admitted to the adversary adjudication for which an award is sought. The applicant must show that it meets all conditions of eligibility set out in this subpart and in subpart B of this part.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of \$2 million or less;

(2) The sole owner of an unincorporated business who has both a net worth of \$7 million or less (including personal and business interests), and 500 or fewer employees;